

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MARTIN HAGOPIAN,

Plaintiff,

Case Number: 05-CV-74025

v.

HON. GEORGE CARAM STEEH

DAVID SMITH, ET AL.,

Defendants.

**ORDER DENYING PLAINTIFF'S
MOTION FOR CERTIFICATE OF APPEALABILITY**

Plaintiff Martin Hagopian, a Michigan state prisoner, filed a complaint under 42 U.S.C. § 1983, alleging defendants were deliberately indifferent to his medical needs. On September 13, 2006, the Court issued an order adopting the Magistrate Judge's Report and Recommendation and dismissing the complaint without prejudice because Plaintiff failed to exhaust administrative remedies. Plaintiff filed a Notice of Appeal on October 19, 2006. Plaintiff then filed a Motion for Certificate of Appealability.

Under the Antiterrorism and Effective Death Penalty Act of 1996, a certificate of appealability is required to appeal a judgment in a habeas corpus action where the detention complained of arises out of a state court process. 28 U.S.C. § 2253(c)(1). A certificate of appealability is not required to appeal from an order denying relief in a § 1983 action. Johnson v. CCA-Northeast Ohio Correctional Center, 21 Fed. Appx. 330, 332 (6th Cir. 2001). Therefore, the Court shall deny the Motion for Certificate of Appealability as unnecessary.

Accordingly, **IT IS ORDERED** that Plaintiff's Motion for Certificate of Appealability is **DENIED**.

Dated: December 12, 2006

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
December 12, 2006, by electronic and/or ordinary mail.

S/Josephine Chaffee
Deputy Clerk